

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:

RONNIE EUGENE HARDING JR.,

Debtor(s).

Bk. No. **18-06480-RM3-13**

Chapter 13

Judge Randal S. Mashburn

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: July 18, 2019
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: July 31, 2019 at 8:30 a.m. in Courtroom 1, 2nd Floor Customs House, 701 Broadway, Nashville, Tennessee 37203

NOTICE OF TRUSTEE'S MOTION TO DISMISS FOR CAUSE, PURSUANT TO
11 U.S.C. § 1307(c)

Henry E. Hildebrand, III, Standing Trustee for Chapter 13 matters in the Middle District of Tennessee, by and through his counsel, has asked the Court for the following relief: **Trustee's Motion to Dismiss for Cause Pursuant to 11 U.S.C. § 1307(c).**

YOUR RIGHTS MAY BE AFFECTED. If you do not want the court to grant the attached motion by entering the attached order, or if you want the court to consider your views on the motion, then on or before the response date stated above, you or your attorney must:

1. File with the court your response or objection explaining your position. Please note: the Bankruptcy Court for the Middle District of Tennessee requires electronic filing. Any response or objection you wish to file must be submitted electronically. To file electronically, you or your attorney must go to the court website and follow the instructions at: <https://ecf.tnmb.uscourts.gov>.

If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584. You may also visit the Bankruptcy Court in person at: 701 Broadway, 1st Floor, Nashville, TN (Monday - Friday, 8:00 A.M. - 4:00 P.M.).

2. Your response must state the deadline for filing responses, the date of the scheduled hearing and the motion to which you are responding.

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. **THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.** You may check whether a timely response has been filed by viewing the case on the court's website at <https://ecf.tnmb.uscourts.gov>.

If you or your attorney does not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter the attached order granting that relief.

Date: June 27, 2019

/s/ Tracy L. Schweitzer

Tracy L. Schweitzer
Counsel to Henry E. Hildebrand, III
Chapter 13 Trustee
P. O. Box 340019
Nashville, TN 37203-0019
615-244-1101; Fax 615-242-3241
www.ch13nsh.com
pleadings@ch13nsh.com

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Chapter 13

Judge Randal S. Mashburn

TRUSTEE'S MOTION TO DISMISS FOR CAUSE, PURSUANT TO
11 U.S.C. § 1307(c)

Henry E. Hildebrand, III, Standing Trustee for Chapter 13 matters in the Middle District of Tennessee, by and through his counsel, respectfully moves this Court to dismiss the above-styled case, for cause, for the debtor's failure to modify the debtor's Chapter 13 plan to provide for the claim of IAFCO, LLC.

In support of this motion, the Trustee would state the debtor filed a voluntary petition under Chapter 13 of Title 11 on September 27, 2018. An order confirming Chapter 13 plan ("Confirmation Order") was entered on November 13, 2018. On January 17, 2019, the debtor filed a Motion for Expedited Hearing on Debtor's Motion to Incur Debt. On February 19, 2019, an order granting expedited Motion to Incur Debt was entered, docket 35.

The order granting expedited Motion to Incur Debt authorized the debtor to obtain a loan to purchase a motor vehicle not to exceed \$12,672, with a monthly payment not to exceed \$350, and an interest rate not to exceed 25%. The order did not make any modification to the amount of the debtor's Chapter 13 plan payment, and specifically stated the unsecured creditors would not be affected by the motion.

On April 3, 2019, a proof of claim was filed by IAFCO LLC, designated as claim 5 on the Court's claims register. Claim 5 is in the amount of \$12,672, secured by a lien on a 2014 Nissan Rogue.

The debtor has not filed a Motion to Modify the debtor's Chapter 13 plan to provide for payment of claim 5 to IAFCO with respect to the 2014 Nissan Rogue. The debtor has also not filed an objection to IAFCO's proof of claim. Therefore, the claim is an allowed claim, which renders the debtor's plan unfeasible.

The failure of the debtor to modify the debtor's plan to provide for payment of the 1305 post-petition claim of IAFCO constitutes cause which justifies dismissal of the debtor's case.

WHEREFORE, THE PREMISES CONSIDERED, the Trustee moves this Court to dismiss the above-styled case, for cause, pursuant to 11 U.S.C. § 1307(c)(1), for the debtor's failure to file a motion to modify plan to provide for the payment of Court claim 5 by IAFCO LLC in the amount of \$12,672 secured by a lien on the debtor's 2014 Nissan Rogue.

Respectfully submitted,

/s/ Tracy L. Schweitzer

Tracy L. Schweitzer
Counsel to Henry E. Hildebrand, III
Chapter 13 Trustee
P. O. Box 340019
Nashville, TN 37203-0019
615-244-1101; Fax 615-242-3241
www.ch13nsh.com
pleadings@ch13nsh.com

CERTIFICATE OF SERVICE

I, the undersigned, hereby certifies that on or before the 27th day of June, 2019, a true and correct copy of the foregoing has been served in the following manner:

Email by Electronic Case Noticing to:

U. S. Trustee
Clark & Washington, Counsel for Debtor

By U. S. Postal Service, postage prepaid to:

Ronnie E. Harding Jr., 1013 Nashboro Blvd., Nashville, TN 37217
Clark & Washington, 237 French Landing Drive, Nashville, TN 37228
IAFCO LLC, c/o Meridian Buyers Group LLC, 95 White Bridge Road, Suite 500, Nashville, TN 37205

/s/ Tracy L. Schweitzer

Tracy L. Schweitzer
Counsel to Henry E. Hildebrand, III
Chapter 13 Trustee

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IN RE:

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Chapter 13

Judge Randal S. Mashburn

ORDER DISMISSING CASE

It appearing to the Court, based upon the certification of the Trustee's counsel as indicated by her electronic signature below, that the Trustee, by and through his counsel, has filed a Motion to Dismiss the above-styled case, for cause and that, pursuant to Rule 9013-1 of the Local Rules of the Bankruptcy Court for the Middle District of Tennessee, has forwarded a copy of that application along with notice and an opportunity to be heard to the debtors, debtor's counsel, the creditor, and the Assistant U. S. Trustee and that no affected party in interest has objected to or requested a hearing on the Trustee's application, it is

ORDERED, the above-styled case is dismissed, for cause, pursuant to 11 U.S.C. § 1307(c)(1), for the debtor's failure to file a motion to modify plan to provide for the payment of Court claim 5 by IAFCO LLC in the amount of \$12,672 secured by a lien on the debtor's 2014 Nissan Rogue.

THIS ORDER WAS SIGNED AND ENTERED
ELECTRONICALLY AS INDICATED AT THE
TOP OF THE FIRST PAGE.

APPROVED BY:

Tracy L. Schweitzer
Counsel to Henry E. Hildebrand, III
Chapter 13 Trustee
P. O. Box 340019
Nashville, TN 37203-0019
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